

FILED

NOV 12 2024

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
TOLEDO

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

WAYNE ANTHONY DAVIS,

Plaintiffs,

v.

DANIEL L. BRUDZINSKI, et al.,

Defendants.

:
:
: Case No. 3:24cv01421
:
: Judge Knepp
:
: Magistrate Judge Clay
:
:

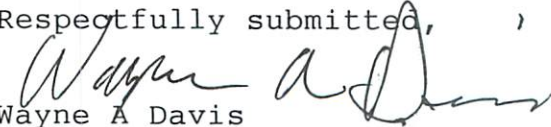
Now come Plaintiff Wayne A Davis respectfully submit this response in opposition to DAVE YOST (0056290) counselor for defendants Motion to Dismiss should be denied

Under 28 U.S.C. 1331 Grant Federal question jurisdiction over civil actions to the federal court. It states and following "The District Court have original jurisdiction over all civil actions arising under the Constitution laws or treaties of the United States."

Under 42 U.S.C. 1983, individuals can bring a claim against state and local officials for violations of their constitutional or federal rights. This statute allows for lawsuits when someone acting on the code of state law deprives a person of their rights 1983 claims are typically brought by individuals there are instances where collective conduct claims can be pursued, particularly in cases involving systemic issues or widespread violations affecting multiple people.

For the foregoing reasons, Plaintiff Wayne A Davis, one of the people of the United States respectfully moves this honorable court to deny dismissal of defendant Trooper Donte' M Hanns and the Ohio State Highway Patrols Motion to Dismiss in case number 3:24-cv-01421-JRK

Respectfully submitted,)


Wayne A Davis
314 Morrison Street 43420
(419) 984-4767

This Motion is supported by attached memorandum.



DAVE YOST

OHIO ATTORNEY GENERAL

Constitutional Offices Section

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September 16, 2024

Wayne Anthony Davis
314 Morrison Street
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Re: *Davis v. Brudzinski, et al.*
U.S. Dist.Ct., N.D. of Ohio, Case No.24cv1421

Dear Mr. Davis,

Enclosed for your records is a copy of *Defendants Trooper Hanns And Ohio State Highway Patrol's Motion To Dismiss* filed electronically in the above referenced matter.

Very respectfully yours,

s/ Bryan B. Lee /clk

Bryan B. Lee
Assistant Attorney General

/clk
Enclosure(s)

cc: Brandon Pokersnik
1231 Superior Avenue, Suite 200
Cleveland, Ohio 44114

Raymond Alfred Runner
1018 River Drive
Maumee, Ohio 43537

Barbara Thacker
300 Garrison Street #203
Fremont, Ohio 43420

Judge Daniel L. Brudzinski
323 South Front Street
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Candice L. Rodriguez
517 Tiffin Street
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Hassan Mohammed
300 Garrison Street #203
Fremont, Ohio 43420

Claims can be brought against public employees for retaliation against class action lawsuits where a group of plaintiffs collectively challenged policies or practices that violate their rights.

Also plaintiff case is not to determine the statute of limitation. Only to process federal law. Qualified immunity is determined of the defendant's misconduct violation of the constitutional right.

CLEARLY ESTABLISHED RIGHT, The court considers whether the right was "clearly established" at the time of the alleged misconduct. This means that reasonable officials would have known that their action was unlawful.

Qualified immunity aims to balance holding public officials accountable while protecting them from undue harassment and liability when performing their duties reasonably.

(A) PROCESS SERVER: Defendant was served September 21, 2024 at 11:45 am. The service was executed by C.O.P.S. Complete Ohio Process Server, PI Agent, REV. TONY HODGE. A private investigator after Law school, working in Chicago, Washington DC, Los Angeles, Miami and other parts of the country.

Due process: The fifth amendment requires that service of process be reasonably calculated to inform the defendant of the action and provide them an opportunity to respond.

(B) Defendant borrowing of statute does not bar misconduct that the Trooper has committed. Ohio revised Code section 3737.51 address of civil penalties for violations

1. The provisions which grant the court subject matter jurisdiction, if the case involves a federal question 28 U.S.C. 2331 Grant's courts jurisdiction over cases arising under federal law.

2. The claims in case no. 3:24 cv 01421 arise under federal law, the amount in controversy exceeds \$75,000. This court has jurisdiction.

*FEDERAL QUESTION JURISDICTION, is a type of subject matter jurisdiction that give federal court the power to hear cases that involved alleged violations of constitution federal law or treaties the United States is a party to its one of the most common way to get a case into federal court.

(a) Osborn v. Bank of the United States(1824): this Case established that federal issue is not the primary focus of the case.

(b) Louisville & Nashville Railroad Company v. Mottey (1908) known as the Mottey Rule this case determined that a federal question must be presented in the plaintiffs entitle complaint not as defense or participate defense.

(c) Gramble & Sons Metal Production, Inc v. Darue Engineering & Manufacturing (2005): This case established the Grambler Test, which is used to determine if a federal issue is significant enough to warrant Federal Questions Jurisdiction.

28. Approximately 20 minutes later defendant return

29. Defendant stated that the judge was not going to Grant the taking of blood

30. Plaintiff was released, and forced to find a way home

+++++

Heck v. Humphrey (1994). In this case the US supreme Court held that they plaintiff cannot pursue damage under 42 U.S.C. § 1983 for an unconstitutional conviction or imprisonment unless the conviction or sentence has been reversed expunged

FEDERAL CLAIM FIRST CALLS OF ACTION

Fourth Amendment violation unlawful search (against dependent 1 and 2)

Defendant one violated playing the rights to be free of a search and seizure when he searched planes persons without a warrant or probable cause

Plaintiff nearby incorporates the proceedings paragraphs as if related here in specifically 7 through 10 as it pertains to defendant 1 and 2

Probable cause is defined in terms of fact or circumstances sufficient to warrant a prudent man and believing that the (suspect) had committed or was committing an offense.

State v. Batchili 113 ohio st. 3d 403 2007-Ohio-2204 12, 865 N.E. 2d 492 (2015)

(Nothing that "ordinary inquires" incident to a traffic stop typically involved checking the driver's license determining whether there are outstanding warrants against the driver, and inspecting the automobiles registration and proof of insurance)

RULE 3.3: Candor Toward the Tribunal

• ABA advocate

(a) A lawyers will not knowingly

(1) Make a false statement of fact or law to a tribunal or fail to correct a fals ine statement of material fact or law previously made to the tribunal by the lawyer.

(2) Failed to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed opposing counsel.

(3) Offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer still take responsible remedial measures including, if necessary, disclosure to the tribunal. A Gloria May refuse to offer evidence other than the testimony of a defendant and a criminal matter that the lawyer reasonably believes is false

(b) A lawyer who represent a client in adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take responsible remedial measures, including, if necessary, disclosure to the tribunal.

(c) And an expert a proceeding a lawyer cell inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make and informed decision whether or not the facts are adverse.

EXHIBIT A STATEMENT OF CLAIM
FACTUAL ALLEGATIONS

ON MARCH 20, 2021 defendant stop plaintiffs vehicle as he was driving on Justice Street Fremont Ohio.

1. At the time of the stop plaintiff was
2. driving 6 miles per hour.
3. The speed limit on the small Street is 4. (4) about 10 mph
5. Defendant walk to driver side of 6. plaintiff's vehicle.
7. Defendant stated that the plaintiff's
8. driver's license were suspended.
9. Plaintiff give the defendant a valid
10. Georgia driver's license no. 054958651,
11. Defendant ask the plaintiff to step out
12. of the vehicle
13. The plaintiff then ask for the
14. defendants Superior
15. Few minutes later two Fremont Police
16. officers arrived on the scene
17. Under duress plaintiff exit the vehicle
18. The defender placed plaintiff in
19. handcuffs, search his persons
20. The officers escorted plaintiff to
21. defendants vehicle
22. Defendant then drove plaintiff to Ohio 23. patrol station for DUI test
24. Plaintiff refused to blow, give urine or
25. blood
26. Furiously defendant stated that he (27) would get a court order from the judge.
28. The defendant stormed out of the station

CLEARLY ESTABLISHED LAW

Qualified immunity protects state and government officials from lawsuits unless they violate a clearly established constitutional right

In the 2018 supreme Court decision *District of Columbia v. Wesby*, Means at the time of the officer's actions the legal standards were clear enough that any reasonable official would know that what they were doing was unlawful

Meaning they must have had a clear notice that the conduct was illegal.

That at the time of the officials conduct, the law was sufficiently clear that every reasonable official would understand that what he or she is doing is unconstitutional

§§ *Ashcroft v. al-Kidd*, the courts dated that a right is clearly established only if the legal principal has been placed beyond debate by existing precedent.

This means that there must be a high degree of specificity in the legal precedent to ensure that officers have fair warning that their conduct is unlawful.

LEGAL PRINCIPLES

There are legal principles that govern police stops. One of the key principles is the Fourth Amendment of the U.S. Constitution. Which protects individuals from unreasonable searches and seizures.

1. **REASONABLE SUSPICION:** For a police officer to stop an individual, they must have reasonable suspicion that the person is involved in criminal activity. This means the officer must have suspect and articulable fact that suggests a crime has been, is being or is about to be committed.

2. **TERRY STOP:** this type of stop, also known as a "stop and frisk" allows an officer to briefly detain a person based on reasonable suspicion. During a Terry stop, the officer made also pat down the person outer clothing if they suspect the person is armed and dangerous

IF A POLICE OFFICER DOES NOT COMPLY WITH THE LEGAL REQUIREMENTS OF A TERRY STOP THEY COULD BE CONSIDERED TO HAVE VIOLATED THE FOURTH AMENDMENT OF THE U.S. CONSTITUTION,

3. **RIGHTS DURING A STOP:** Individuals have certain rights during a police stop, such as a right to remain silent and the right to refuse consent to a search of their person or belongings. However, officers may still conduct a pat-down if they suspect a weapon.

4. **DE-ESCALADE AND COMPLIANCE:**
While the burden of de-escalade

CERTIFICATE OF SERVICE

I hereby certify on November____ 2024, a copy of the forrgoing Plaintiff Wayne A Davis' responce to Defendant Tooper Hanns and Ohio State Highway Patrol's Motion to Dismiss was filed 9/16/2024 Notice of this filing will be sent to all parties for whom counsel has enter an appearance and by fist class mail / US POSTAL Servi

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